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DPD 2013 Omnibus Director's Report
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DIRECTOR'S REPORT AND RECOMMENDATION
Omnibus Ordinance

Introduction
The Department of Planning and Development (DPD) is responsible for development and routine maintenance of the Land Use Code. The proposed amendments are called "omnibus" amendments because DPD packages a collection of amendments that are small scale, with a limited scope of impact. Such amendments include correcting typographical errors and incorrect section references, as well as clarifying or correcting existing code language. Following is a section-by-section description of the proposed amendments. Where the only changes are minor grammatical corrections to existing language or corrections of typographical errors, the descriptions are limited or omitted.

5.72.040 Multifamily Housing Property Tax Exemption – Project Eligibility
For a project to be eligible for the Multifamily Tax Exemption (MFTE) program in Chapter 5.72, it must go through a design review process. At the time this eligibility criterion was established, Chapter 23.75 regulating Master Planned Communities was not yet in effect, and "Master Planned Community design review" (23.41.020) did not exist as a design review process. The proposed change would clarify that multifamily projects complying with the design review requirements described in Section 23.41.020 are eligible for MFTE.

23.22.062 Subdivisions – Preliminary Plat Considerations – Unit lot subdivisions
This amendment would clarify that unit lot subdivisions of land for certain types of uses is available in all zones where those uses are permitted. The code language as it exists states that the section applies exclusively to unit subdivisions in certain specified zones for certain uses, and also "as permitted in applicable zones." This amendment is intended to eliminate confusion created by this phrase. A further change would clarify that housing types eligible for unit lot subdivision include apartment structures, but not individual apartment units, as well as the currently listed townhouse, rowhouse, cottage housing, and SF if in a Lowrise zone. The change would allow a unit lot subdivision between apartment structures, if there are two or more apartment structures on the same site.

23.22.066 Subdivisions – Technical standards for final plat
The proposed changes would update the requirements for the form of final plat documents to agree with filing requirements of the King County Recorder.

23.22.074 Filing of final plat, Council determination of final plat
The proposed change to Section 23.22.074 would delete subsection C, which provides a time limit in which a subdivision is deemed to meet lot requirements of the Land Use Code. This issue is also controlled by state platting law.

23.22.062, 068, 082, 23.24.045, 050, 23.43.008, 010, 23.44.014, 015, 23.49.034, 23.53.006, 020, 030, 23.60.160, 23.76.032, 23.84A.024, 23.90.006

The proposed changes in all of the above code sections would delete references to King County Department of Records and Elections and replace with "King County Recorder."

23.22.100.C, 23.24.040.A, 23.28.030.A

The current platting standards require, for lots with alley frontage, that proposed new lots also have sufficient frontage on the alley to meet access standards. The proposed change would clarify that actual frontage on an alley is not required if an access easement is provided for alley access.

23.24.020 Short Plats – Content of application

The proposed amendment would specifically require complete scientific and common names of existing trees that meet the size requirements of the Tree Protection regulations, so that this essential information for identification of exceptional trees, which is commonly requested as further information in project review by DPD planners, is provided as soon as possible in the review process.

23.24.045 Short Plats – Unit lot subdivisions

This amendment would clarify that unit lot subdivisions of land for certain types of uses is available in all zones where those uses are permitted. The code language as it exists states that the section applies exclusively to unit subdivisions in certain specified zones for certain uses, and also "as permitted in applicable zones." This amendment is intended to eliminate confusion created by this phrase and would allow unit lots in NC zones, for example. A further change would clarify that housing types eligible for unit lot subdivision also include apartment developments, but not individual apartment units, if there are two or more apartment structures on the same site.

23.28.030.A.2 Lot Boundary Adjustments – Criteria for approval

The proposal would clarify subsection A.2 to state that any lot adjusted according to the requirements for lot configuration under Section 23.28.030 will continue to be regarded as existing lots for purposes of compliance with the standards of Chapter 25.09, Regulations for Environmentally Critical Areas. The critical areas regulations require, for certain types of decisions such as variances, that the lot be in existence prior to the effective date of the critical areas regulations in 1992. Minor adjustments to lots occurring after that date should not be interpreted as disqualifying those lots from eligibility for these critical areas decisions.

23.40.020 Variances

Recent amendments to the Yesler Terrace zoning (Ordinance 123963) changed Section 23.40.020 to prohibit variance applications from all height limits established in the code. Previously, variances from height were prohibited only in zones that had mapped height limits. This proposed amendment restores DPD's authority to review variances from height standards in zones where the height limit is not part of the zone designation on the official land use map, with the single exception of the chapter regulating Yesler Terrace, where there are multiple height

limits within a single zoning designation, and therefore these height limits are not mapped, but the policy for the Yesler Terrace zones, similar to Downtown and Commercial zones, is to not allow variances from height standards.

23.41.004 Design Review - Applicability

The proposal would clarify 23.41.004.A.5 to state that streamlined design review is required for any type of project involving the removal of an exceptional tree, assuming the project is otherwise exempt from regular design review, instead of the current language limiting streamlined design review to "new multifamily and commercial development proposals."

A second change would clarify that all projects reviewed by the Seattle Design Commission are exempt from Design Review.

A third change, applicable to streamlined design review of townhouses, would clarify that if there is development of different types of residential buildings on the same site, but the development includes at least three townhouse units, then streamlined design review is required for the entire development.

A fourth change, to subsection 23.41.004.B, would clarify the language for optional design review and administrative design review for proposals otherwise exempt to say that the optional design review applies only to structures that would not exceed the thresholds for design review in Table A for 23.41.004 and to multifamily, commercial or Major Institution development proposals that are in the Stadium Transition Area Overlay District or in any multifamily, commercial or downtown zone. The current language does not reference the design review thresholds and can be read to be limited only to the Stadium Transition Area Overlay District.

Minor formatting changes are also proposed.

23.41.012 Design Review – Development standard departures

The first proposal would change 23.41.012.B.12.d and B.12.e to clarify that the additional 3 feet of structure height allowed as a departure under these sections may be granted if the structure is set back 6 feet from all lot lines abutting streets, in addition to any other required building setbacks, which is consistent with the adopted neighborhood design guidelines for the Uptown Urban Center and other neighborhoods as listed in these subsections.

A second proposed change would add new subsection 23.41.012.B.27 to include structural building overhangs in the list of standards or requirements that are not eligible for design departure. Structural building overhangs are features of buildings that encroach into public property, such as City street right of way, and include architectural features such as cornices and eaves, as well as features such as bay windows that may include floor area. Separate changes to the structural building overhang standards in Section 23.53.035 are proposed that are intended to simplify and clarify how these features are regulated and remove any need to apply for design departures.

A third proposal would correct a minor cross reference error in Section 23.41.012.E regulating departures for character structures in the Pike/Pine Conservation Overlay District.

23.42.124 General Use Provisions – Light and glare standards nonconformity
The change would delete a reference to former Section 23.45.017, which has been repealed.

23.43.008, 23.43.010, 23.43.012, 23.44.014.D Residential Small Lot and Single Family zones – yard/setback exceptions for tree protection
A yard or setback exception, depending on the zoning designation is proposed to be added in the Residential Small Lot and Single Family zones that cross references to the Tree Protection ordinance, Chapter 25.11, similar to the exception in 23.44.014.D.15 for reducing yards on site with ECA's, in order to protect the critical areas.

23.44.014.C.2, 23.44.014.D, 23.44.014.D.6, and 23.44.014.F
Subsection C.2, which is written as a yard exception, is proposed to be moved from the basic yard standards in subsection C to the yard exceptions in D, as new subsection D.18, to allow a structure in a side yard adjacent an alley. Subsection 23.44.014.D.6 would be amended to clarify that certain structural features such as eaves and chimneys are allowed to extend into yards whether they are built onto principal structures such as residences or accessory structures including sheds and garages. This exception is not applicable to accessory dwelling units, due to the policy intent of limiting accessory dwelling unit bulk and scale in required yards. A new subsection 23.44.014.F is proposed to include a cross reference in the yard requirements to the setback standards for structures from access easements specified in the easement regulations in Section 23.53.025. The setback requirements from easements are sometimes overlooked in design and review of structures proposed on residential lots with no street frontage that are accessed by an easement.

23.44.016 Residential, Single-Family – Parking and Garages
Subsection 23.44.016.D.3 would be clarified to limit this exception allowing garages within 5 feet of side lot lines if also within 35 feet of the center line of an alley or 25 feet from any rear lot line that is not an alley lot line to detached garages only. This section has been misinterpreted to effectively allow principal structures to extend into yards if the extension is an attached garage.

The last sentence of subsection 23.44.016.E.3 would be clarified that the general rule requiring garages in required yards to be separated from principal structures by five feet does not apply to attached garages permitted in rear yards pursuant to Section 23.44.016.D.5 as well as terraced garages in compliance with subsection 23.44.016.D.9.b. While somewhat redundant, this makes clear that garages allowed to be part of a principal structure are not subject to separation standards.

Subsection 23.44.016.F is proposed to be amended to clarify the standards for appearance of garages. Standards were imposed in 2008 to prohibit ground level front facades comprised mostly or entirely of garage entrances from extending forward of the remaining front façade of a single family residence. The garage is allowed to project from the front of the house only if it

shares the front façade with at least 80 percent of the remaining non-garage street level façade. If the entire street level façade of the house is comprised of a garage, then at least 80 percent of the façade of the story above the street level must be even with the garage entrance. This standard has been difficult to apply in practice, due to difficulty in defining the front façade and because of uncertainty about how to treat additions and alterations to existing structures. Also, the code does not currently provide a standard for detached garages that may be constructed in front of a residence. In some cases the current standards cause unintended results, such as blank facades or false walls that do not achieve the better designs that were expected.

The proposal would apply the standards for attached garages to detached garages. For example, a one-story detached garage would not be allowed in front of a house, but it could be placed even with the front façade of a house. A two-story garage would be allowed if at least 80 percent of the second story was even with the garage entrance. Existing regulations concerning front yard parking would continue to prohibit placement of any detached or attached garage within the required front yard, which is usually 20 feet as measured from the front lot line.

In addition, the proposed amendments would make the standards clearer to administer by exempting garages from the standards entirely if they are set back at least 35 feet from the front lot line. If that is not possible, then either modification is allowed as under the current language, or a complete waiver of standards could be allowed based on several listed factors such as irregular lot shape, topography, configuration of existing structures, location of exceptional trees, or use of screening, landscaping or modulation.

23.44.018 Residential, Single-Family – Conditional Uses – General Provisions
Subsection F would be changed to clarify that minor structural work that is not regarded as an expansion does not also require an ACU.

23.44.026 Use of landmark structures
23.44.028 Structures unsuited to uses permitted outright
23.44.030 Park and pool lot
Although these sections are contained in the code chapter for conditional uses in single family zones, they do not contain the words "as an administrative conditional use." In order to comply with the code-drafting standard that substantive requirements should not be found in section titles, this amendment would insert the phrase "as a conditional use," which would make these provisions conform to similar provisions in the code.

23.44.036 Residential, Single-Family – Public facilities
The proposed change would clarify that permitting of public facilities is a Type IV quasi-judicial land use decision by City Council and permitting of City facilities is a Type V legislative decision by City Council by providing a cross reference to the relevant approval procedures for these decisions in SMC Chapter 23.76.

23.44.041 Residential, Single-Family – Accessory Dwelling Units
Table A for 23.44.041 would be clarified to state that the maximum gross floor area for detached accessory dwelling units includes garage and storage space if provided in the same structure as the accessory dwelling unit. This is the same rule already set forth in the table for attached accessory dwelling units.

Subsection 23.44.041.B.2, Table B for 23.44.041, and Exhibit A for 23.44.041 would all be clarified to delete references to "maximum height" and instead use the term "base height" unless referring to the additional height for pitched roofs. A further change to Table B would exempt small covered porches and covered decks, as well as underground areas of a structure, from the maximum gross floor area limit of 800 square feet for detached accessory dwelling units. Exhibit A for 23.44.041 would also be changed to show measurement from average grade level instead of existing or finished grade.

Subsection 23.44.041.B.3 would be amended to clarify that a completely rebuilt accessory structure, if legally rebuilt to the same configuration existing prior to June 1, 1999 and in compliance with Section 23.42.112.B, is considered an existing accessory structure eligible for conversion to a detached accessory dwelling unit. Subsection E concerning reporting requirements is proposed to be deleted, as there is now sufficient data on numbers of accessory dwelling units after tracking them since the inception of these regulations in 1994.

23.44.044 Residential, Single-Family, 23.45.545.A.3 Multi-family – Swimming pools
Subsections 23.44.044.D and 23.45.545.A.3 requiring fencing around swimming pools are proposed to be deleted, as there are more stringent fencing standards in the Building Code (2009 Seattle Residential Code).

23.45.502 Multi-family – Scope of provisions
Subsection C is proposed to be added to allow the High Point and Rainer Vista low income housing developments, largely developed under prior zoning but with some outstanding development remaining, to continue to operate under prior zoning and prior multifamily development regulations, so that variances from current code are not required in order to complete the redevelopment of these projects. A cross reference is added to new language in the regulations concerning vesting under Section 23.76.026.D.

23.45.508 Multifamily – General provisions – SF dwelling units
The proposed change to subsection 23.45.508.F would clarify that single family dwellings shall meet the development standards for townhouse developments, "unless otherwise specified" (or "except as otherwise provided . . .") in the code, to make it clear that specific regulations for single family dwellings control where they appear in the code, instead of townhouse standards.

A new subsection 23.45.508.K is proposed to explain how to apply development standards in situations where there is more than one category of residential use on the same lot, for example a single family residence and two townhouses on the same lot. In these situations, the formula for allocating floor area ratio in subsection 23.86.007.E would also be used to allocate the

percentage of any other development standard, such as density or amenity area, applicable to each category of use.

23.45.510 Multifamily – Floor area ratio (FAR) limits

Subsection 23.45.510.C.1 would be clarified to specify that the higher FAR limit is applicable to a site developed with existing buildings but where new structures or additions to the existing structures are added to the site, if those additions and new buildings meet the green building standards of 23.45.526. The existing buildings would not be required to upgrade to current green building standards.

In subsection 23.45.510.C.3, the higher FAR limits are allowed for rowhouse and townhouse developments if parking is enclosed within the structure or, if located outside a structure, it is located in a parking area "at the rear of the lot." The requirement to locate parking at the rear of the lot would be clarified to state that the parking is to be located behind all structures or, if the parking is accessed from the alley, it is no closer to the front lot line than half (50 percent) of the total lot depth. For example, on a lot that is 100 feet deep and accessed from an alley, the parking would be required to set back at least 50 feet from the front lot line.

Subsection 23.45.510.D, setting FAR limits in Midrise and Highrise zones, would be clarified to provide the same cross reference to the incentive zoning regulations in Chapter 23.58A, for structures and lots in MR and HR zones with incentive zoning suffixes, which is currently set forth for Lowrise zones in subsection 23.45.510.B. Chapter 23.58A provides a means to gain additional FAR over the base limit shown in all incentive zoning suffix designations.

Subsection 23.45.510.E.3 is proposed to be clarified to specifically allow an exemption from FAR limits for floor area contained in residential structures built as single family residences prior to 1982 and converted to multifamily structures, without regard to the number of dwelling units added to the structure, so long as no additional floor area is proposed. The change conforms to the policy of allowing relatively easy conversion of older homes to multifamily use in multifamily zones, provided that the exterior appearance remains the same as before the conversion.

Subsection 23.45.510.E.5.a currently specifies that floor area within a structure is exempt from FAR limits if it is partially above grade, has no additional stories above, and if the height of the walls above grade does not exceed 4 feet as measured from the lower of existing or finished grade. The proposal is to allow a full story to project above grade, and still be exempt from FAR limits, if the floor area within is limited to parking area or other accessory uses. The code would retain the requirement that no stories may be built above this exempt floor. The change would allow a common parking area on sites where there are grade changes, for example.

A new subsection 23.45.510.E.9 is proposed to exempt rooftop green house areas in Midrise and Highrise zones from FAR.

23.45.514.F Multifamily – Structure height

Subsection 23.45.514.E.1, allowing a 3-foot height exception for shed or butterfly roofs (pitched only on one side or pitched so that the low point of the roof is in the center) is proposed to be changed to clarify that the exception is only available if the height exception in subsection F allowing 4 feet of additional height for a story that is partially below grade is not used. This limitation already applies to the separate height exception for a pitched roof and is proposed to be applied to shed and butterfly roofs for consistency. A change to E.2 would clarify that only eaves, not gutters, are allowed on the high side of a shed or butterfly roof, as gutters are not useful on the high side of a roof.

Subsection 23.45.514.F.1 would be changed to clarify that the current language prohibiting the additional four feet of height for a structure with a partially below grade story in a Lowrise zone if within 50 feet of a single-family zoned lot applies to split zoned lots, too, if any single family portion of the split zoned lot is within 50 feet of the Lowrise zoned lot.

Subsection 23.45.514.F.4 would be changed to specify that calculation of the four feet of additional height allowed for the partially below grade story is to be calculated based on an average above existing grade. The purpose of the four-foot allowance is to facilitate parking and other uses that are partially below ground, and the use of an existing grade average will make the calculation clearer, particularly with respect to lots with a difference in grade.

Exhibit C for 23.45.514.I is proposed to be changed to show that the allowance of additional height for a green roof is not limited to the dirt, but also accounts for the structure needed to support the green roof elements.

23.45.518 Multifamily – Setbacks and separations

Table A for 23.45.518 would be changed to specify that there is no required rear setback for townhouses if on a lot adjacent to an alley, which is the same standard already set forth for cottage housing, single family, and rowhouse developments in Lowrise zones. The standard was mistakenly omitted for townhouses.

Subsection 23.45.518.H.5 is proposed to be amended to clarify that unenclosed porches and steps are allowed not only in front setbacks from lot lines, as specified in the current code language, but are also allowed in separations between structures on a lot and in required rear setbacks, subject to limits on their height and width, as well as a minimum setback of 5 feet from rear property lines. These additional standards for porches and steps were provided in the multifamily regulations prior to their amendment under Ordinance 123495, and the proposal simply restores former allowance of these features.

Similarly, subsection 23.45.518.I is proposed to be amended to allow unenclosed decks and balconies to project into separations between structures on a lot, as well as setbacks from lot lines, as was allowed under the multifamily code prior to Ordinance 123495.

23.45.520 Multifamily – Highrise zone width & floor size limits

The proposal would clarify that Highrise zone width and floor size limits apply only to structures over 85 feet in height. Structures higher than 85 feet are the types of structures specifically allowed only in Highrise zones, where these bulk limitation standards seem appropriate, but there is no need for them in the other multifamily zones or for structures less than 85 feet in height in Highrise zones.

23.45.522. D Multi-family – Amenity area

Subsection D is renumbered to eliminate incorrect numbering of two of its subsections as D.5. The exemption from amenity area in subsection E for addition of a dwelling unit is proposed to be clarified to state that the exemption applies to addition of only one new dwelling unit to an existing multifamily residential use.

23.45.529 Multi-family – Design standards

Subsection 23.45.529.C.1 requires street facing facades of multifamily structures exempt from design review to have 20 percent of the façade to consist of windows and doors, to promote more transparency of the façade. For building corners where two street facing facades meet, however, the standard can result in too much glazing and detract from the design. Thus, subsection C.1 is proposed to be amended to allow averaging of two street facing facades to meet the 20 percent glazing standard.

Section 23.45.529.C.2 requires, in part, that facades over 750 square feet in area be divided into separate façade planes that project or recess by at least 18 inches from the other abutting façade plans. Exhibit B for 23.45.529 illustrates this requirement but is confusing as a two-dimensional drawing. It is proposed to be clarified by substituting a three-dimensional drawing to show more clearly how the facades are supposed to be arranged.

23.45.532 Multi-family – Standards for ground floor commercial uses in MR and HR zones

Subsection 23.45.532.A.1 currently says that a commercial use in a Midrise or Highrise zone is permitted only on the ground floor of a structure. Prior to amendments to the multifamily code under Ordinance 123209, the code provided that the commercial use was permitted on the ground floor of a multifamily structure. The proposed change to subsection 23.45.532.A.1 would require that a structure contain at least one dwelling unit in addition to the ground floor commercial space.

23.45.536 Multi-family – Parking location, access, and screening

Subsection 23.45.536.E would be amended to provide that setback standards for garage doors apply only in Lowrise zones and not in Midrise or Highrise zones. The purpose of the standard is to limit projecting garages near street lot lines. On smaller structures and lots, the effect of the projecting garage is to create a façade that occupies most of the street lot line and is entirely comprised of a garage and garage door. This concern does not apply in Midrise or Highrise zones, where the projecting garage is not noticeable beneath the typical large multi-story building allowed in those zones and the street lot line typically is much longer than the width of the garage entrance.

23.45.545 Multifamily – Standards for certain accessory uses
Subsection 23.45.545.C.3 is clarified to state that solar collectors on roofs are permitted either above the maximum structure height limit or above the height of elevator penthouses, whichever is higher. In some cases, the height of an elevator penthouse may be lower than the maximum structure height limit, if the entire height limit is not used, and in that case it is reasonable to allow the solar collector on the roof anyway.

Subsection 23.45.545.D is changed to delete repetitious language concerning development standards for solar collectors that is included in subsection 23.45.545.C.

A new subsection 23.45.545.K is added to state that urban farms are permitted in multifamily zones according to the general standards for urban farms in Section 23.42.051.

23.45.570 Multifamily - Institutions
A numbering error would be corrected in subsection 23.45.570.G.

23.47A.004 Commercial – Permitted and prohibited uses
In Table A for 23.47A.004, subsection C.3.b for "Motion picture theaters, adult," the chart for permitted and prohibited uses currently reads "X 25 P P P" for all five commercial zones, which implies that adult theaters are allowed in some of the commercial zones. This line should read "X X X X X" for all zones, to make it clear that the use is prohibited in commercial zones, just as adult panorams are prohibited (see line C.3.c). The proposed change corrects an error that occurred in Ordinance 122311, which adopted the current Chapter 23.47A and replaced the former regulations for Commercial zones in Chapter 23.47. There was no intent to change the regulations for adult motion picture theaters.

Also, Footnote 10 following Table A would be changed to reference 23.47A.006.A.3, not B.3.

23.47A.005 Commercial – Street-level uses
The language in subsection 23.47A.005.C.1.g would be clarified to state that street-level residential use limits in the areas mapped as subject to street-level residential use limits at the end of Chapter 23.47A apply only to street-facing facades that face arterial streets.

Subsection 23.47A.005.C.2.c. would be added to exempt street-facing facades of structures in the Pike/Pine Conservation Overlay District from street-level residential use limits if the façade does not face a principal pedestrian street.

Subsection 23.47A.005.C.2.d would be added to allow conversion of a live-work space, which is regulated as a commercial use, to an accessory dwelling unit regulated as a residential use, as an exemption from street-level residential use limits, in a structure that is in a Neighborhood Commercial 1 (NC1) zone but that is not within an area mapped as subject to street-level residential use limits at the end of Chapter 23.47A.

23.47A.008 Commercial – Street-level development standards
A new subsection 23.47A.008.B.1.d is added to state that basic street-level requirements and non-residential street level requirements apply to all structures in Pedestrian (P) designated zones. Subsection 23.47A.008.C would also be clarified to state that the specific standards in subsection C also apply to all structures in P zones, in addition to the standards in subsections A and B.

23.47A.009 Commercial – Standards applicable to specific areas
For subsection 23.47A.009.A, the proposal would make minor grammatical changes.

In subsection 23.47A.009.D, the references to measurement from finished grade would all be clarified to state that measurement is from "average finished grade" to match the standard measurement practice throughout the Land Use Code.

23.47A.013 Commercial – Floor area ratio
The proposed changes would clarify subsections 23.47A.013.A.3 and D.1. Current references to above-grade parking and gross floor area below grade are unclear. The related section in measurements, 23.86.007.A, discusses how to measure "underground stories or portions of stories" for purposes of exempting from FAR. Subsections 23.47A.3 and D.1, however, do not refer to "underground stories" for exemption from FAR, but rather use the terms "above-grade" and "below grade." The change to 23.47A.013.A.3 would substitute "Parking not located in an underground story or portion of a story" for "Above-grade parking" and the change to 23.47A.013.D.1 would substitute "Underground stories or portions of stories" for "Gross floor area below grade." A further change would add new subsection 23.47A.013.D.7 to exempt rooftop green house areas from FAR limits.

23.47A.014 Commercial – Setback requirements
An incorrect reference in 23.47A.014.A to 23.47A.012.C would be changed to 23.47A.012.D.

23.47A.032 Parking location and access
In subsection 23.47A.032.B.1.d, the outdated reference to parking covenants is deleted and replaced with a reference to the notice required by 23.54.025.D.

23.49.013 Downtown Zoning – Bonus floor area for amenities
The proposed change to 23.49.013.B.3 would allow more flexibility in what can be considered as a bonusable improvement in a Landmark Theater—items beyond the actual theater space that may also require rehabilitation work to keep the whole building sound.

23.49.014 Downtown Zoning – Transfer of development rights
The proposal would change subsection D, concerning transfer of development rights deeds and agreements, to make the language more consistent with what appears in similar recently amended sections in Chapters 23.73 (Pike/Pine Conservation Overlay District) and 23.50 (Industrial zones) related to transfer of development rights and transfer of development potential.

23.49.015 Downtown Zoning – Bonus residential floor area for voluntary agreements for low-income housing and moderate-income housing

Subsection 23.49.015.A.4 is now out of date and is therefore proposed to be repealed. Existing Section 23.49.015.B.1.b.2).(ii) seems to state that the requirement that gross residential floor area for bonus development be multiplied by 80% only applies to DOC1 and DOC 2 zones. However, the 80% rule is generally applied to DMC, as well as DOC1 and DOC2 zones. The amendment would clarify this by moving the sentence defining the 80% rule to a new subsection and also conform the grammar and ordinance hierarchy of subsection B.1 to current drafting standards.

23.49.025 Downtown Zoning – Odor, noise, light/glare, and solid waste recyclable materials storage space standards

See entry under 23.50.044 below.

23.49.181 Downtown Zoning - Bonus floor area for affordable housing in the PSM 85-120 zone

See entry under 23.58A.014 below.

23.50.038

The proposed language adds the same exemptions from Green Factor landscaping requirements for small amounts of development on sites in Industrial Commercial zones that are set forth for commercial zones in subsection 23.47A.016.A.2. There is no apparent policy basis for imposing Green Factor requirements in IC zones for these types of small development and not imposing them in commercial zones.

23.50.044 Industrial – Development Standards in All Zones – Industrial Buffer and Industrial Commercial zones – Standards for major odor sources

This amendment would narrow the use categories in which certain activities would be considered major odor sources in Downtown, IB, and IC zones. As they exist, Sections 23.49.025 and 23.50.044 state that, for example, coffee roasting is a major odor source except when it is done entirely within a retail sales and service use. This would exclude restaurants roasting coffee accessory to the eating and drinking establishment. On the other hand, Section 23.47A.020 states that in commercial zones coffee roasting is not a major odor source when it is contained entirely within a commercial use that is not food processing or heavy commercial services, but is a major odor source in all other cases. Eating and drinking establishments being a commercial use other than food processing or heavy commercial services, coffee roasting as accessory to a restaurant would not be considered a major odor source in a commercial zone, but paradoxically not in Downtown, IB, or IC zones. This amendment would broaden the categories in which coffee roasting and other activities are not considered major odor sources.

23.52.008 Transportation Concurrency – Categorical exemptions

The language would be clarified to specify that most projects that are categorically exempt from SEPA review are still subject to the transportation impact mitigation standards in Subchapter II

of Chapter 23.52 but are exempt from transportation concurrency level of service (LOS) standards in Subchapter I of Chapter 23.52.

23.52.008 Transportation Concurrency – Transportation Impact Mitigation
The proposed change would amend Section 23.52.008 to carry forward into the new codified transportation impact evaluation section (Ordinance 123939) the limitations on transportation impact mitigation for downtown residential projects, including the limits on the types of mitigation that may be uses, that is currently in the SEPA policies. This language was inadvertently omitted from the regulatory reform legislation (Ordinance 123939) that was adopted in 2012.

23.53.005 Access to lots
Section 23.53.005.A currently requires residential uses to either have 10 feet of street frontage, frontage on a private vehicular access easement, or provide a pedestrian access easement. Frontage on an alley only is not allowed. The proposed change would allow a preexisting lot to meet its access requirement if it has direct access to an improved alley, without also providing a vehicle or pedestrian easement, subject to meeting criteria addressing safety, signage, and accessibility to recyclable and solid waste storage.

23.53.006 Pedestrian access and circulation
Subsection 23.53.006.F, which provides various exceptions to pedestrian access and circulation improvement requirements for streets when new development is proposed, would be amended to allow an exception for small non-residential projects with up to 4000 square feet of gross floor area when proposed on large sites, if the structure is at least 50 feet from a lot line abutting a street that does not have full pedestrian access and circulation improvements. In one specific case where this issue arose, the proposal was to build a 2080-square-foot mausoleum within the grounds of Evergreen-Washelli cemetery, but the project triggered pedestrian improvements per 23.53.006.C because the site is in an urban village and the development proposed was on property that abutted an existing street without a sidewalk, although the building site was a long distance from the street.

23.53.035 Structural Building Overhang Amendments
The proposed changes would clarify the code and more specifically limit the size of these features in the right of way.

23.54.015 Quantity and Design Standards for Access and Off-Street Parking – Required Parking
An amendment is proposed to subsection 23.54.015.B.5 to clarify that no parking is required for any single-family residential use on a lot of less than 3,000 square feet in any residential zone, not just single-family zones.
An amendment to subsection 23.54.015.C.3 would clarify that maximum parking limits under this subsection C apply to commercial uses and do not extend to institutions or other types of non-commercial and non-residential uses.

23.54.015 Quantity and Design Standards for Access and Off-Street Parking – Required Parking – Table B for 23.54.015 – Parking for Residential Uses

In part II of Table A for 23.54.015, references to hospitals and institutions are proposed to be deleted on Lines I and K, as parking requirements for institutions are set forth in Table C for 23.54.015, and therefore references to institutions in Table A are repetitive. Under Part III of Table B, Ordinance 123495 (Lowrise amendments) inadvertently deleted the parking requirement for "low-income elderly multifamily residential uses." The proposed change restores this standard as line T, with 1 space for each 6 dwelling units" as it was prior to Ordinance 123495. Also, a reference to "footnote 4," which does not exist, is changed to footnote 3. Further, footnote 1 is clarified to change the incorrect phrase ""section B of Table B for Section 23.54.015 . . ." to "line II of Table B for . . ."

23.54.015.G, 23.54.015 Chart C (23.84A.024)

The proposed change would clarify that the waiver of up to 20 parking spaces for a new non-residential use established in an existing structure does not apply to parking spaces designated or intended for loading and unloading, even though they are defined as a type of parking space.

23.54.025.A Quantity and Design Standards for Access and Off-Street Parking – Offsite parking

Subsection 23.54.025.A is proposed to be clarified by dividing into three subsections. The first would specify that off-site parking may be established by permit on a site where parking is either allowed or already established by permit. Second, all applicable standards for parking must be met on the lot where off-site parking is proposed, if new parking spaces are developed, but existing nonconforming parking that is not required as accessory parking for an existing use may be used as off-site parking without upgrading to current standards. Third, if the site on which the off-site parking is proposed to be located is either solely used for parking or if parking would occupy more than half of the site or half the gross floor area of any structures on the site, then the site must be located in a zone where principal use parking is permitted.

Also, Section 23.54.025 generally addresses off-site accessory parking, or situations where accessory parking is provided on a different lot than the use to which it is accessory. The regulations generally are intended to address minimum parking requirements to make sure that each use with minimum parking requirements provides adequate parking. As written, some of these provisions create ambiguity for projects subject to maximum parking limits, especially where off-site parking might be shared between multiple uses. Edits to both Subsection 23.54.025. A and 23.54.025.B are further intended to clarify the provisions that do not apply to maximum parking limits.

23.54.030 Quantity and Design Standards for Access and Off-Street Parking – Parking space standards

23.54.030.E.4 incorrectly refers to "subsections D.4.a, D.4.b, and D.4.c." The correct reference is D.3.a, D.3.b, and D.3.c."

Subsection 23.54.030.F.1.c is proposed to be clarified to state that curb cut standards apply to unit lots as well as regular platted lots. Subsection F.1.c would be specifically clarified for rowhouse and townhouse development to state that only 18-foot separations between curb cuts are required if the lots on which these housing types are proposed are unit lots, but a minimum 30-foot separation would be required between the parent lots of separate unit lot subdivisions.

Exhibit F for 23.54.030 is proposed to be corrected to depict a driveway perpendicular to the street at the property line, as required by Seattle Department of Transportation (SDOT) street improvement standards. The current exhibit is misleading in that it depicts a driveway that curves to the street.

23.55.034 Signs – Signs in downtown zones
This section states the downtown zones to which the general regulations for signs in downtown zones apply. There is a sentence allowing modification of these sign regulations under the Pike Place Urban Renewal Plan for portions of the Pike Market Mixed zones not located in a Historic District. The sentence is proposed to be deleted, as there is no actual language in the Pike Place Urban Renewal Plan that allows the modification.

23.55.040 Signs – Special exception for signs in commercial and downtown zones
The proposed change would add areas of the Pike Market Mixed zones not located in a Historic District to the list of zones in which the Director may authorize special exceptions to certain development standards applicable to signs. This change is related to the change to Section 23.55.034. Since there is no modification process under the Pike Place Urban Renewal Plan applicable to signs, it is reasonable to allow the special exception process to apply just as it does in other downtown zones.

23.58A.014 Bonus residential floor area for affordable housing
23.58A.024 Bonus nonresidential floor area for low-income housing and child care
Subsections 23.58A.014. B.8 and 23.58A.024.B.1 are proposed to be amended to provide that payment of fees by project applicants and owners of affordable housing under the City's process for incentive zoning will be as specified under either the applicable fee ordinance or Section 22.900G.015, which currently specifies fees for review by the Seattle Office of Housing. The changes will minimize the need for future code amendments each time the process for payment of fees or the amount of the fees is changed.

23.69.032 Master plan process
23.76.056 Council decision on Hearing Examiner recommendation for Type IV Council land use decisions
The proposed amendment to 23.69.032.B.6 would change an out of date reference to "Department of Construction and Land Use" to "Department of Planning and Development." Further changes to both Section 23.69.032 and 23.76.056 are intended to address procedural discrepancies between the current process for master plan approval and other type IV land use decisions, as well as state law. In Section 23.69.032, which outlines the adoption process for major institution master plans (MIMPs), the code states that a master plan is not final until it

becomes law. According to the City Charter, the ordinance adopting the MIMP becomes a law 30 days after adoption by the City Council (the Mayor's signature is not required for quasi-judicial (QJ) land use decisions such as MIMPs). Subsection J of Section 23.69.032 also states that Council decisions on MIMPs must comply with the requirements of Section 23.76.056, which outlines the process for Council adoption of all types of Type IV QJ land use actions.

Since Section 23.69.032 was written in 1990, the Legislature has amended state laws governing appeals of land use decisions. The State Land Use Petition Act (LUPA) now sets a 21 day appeal period for almost all types of local land use decisions. However, the current wording of Section 23.69.032 sets a 51 day appeal period (30 days for the adopting ordinance to become effective plus the 21-day LUPA appeal period). The proposed change would update the MIMP appeal process so that the appeal period would begin on the date the Council adopts the MIMP ordinance, making it consistent with other types of Council QJ decisions and with state law. In addition, Section 23.76.056 is proposed to be amended to clarify that for MIMPs, the City Clerk does not transmit notice of the appeal period until the Council has adopted the MIMP by ordinance. Adoption of the Council's findings, conclusions, and decision, which is done by approving a Clerk File, is not enough to start the appeal period, as it may be for other Council QJ decisions.

Section 23.69.032 is also proposed to be amended to correct formatting and to remove the name of a City office that no longer exists from the distribution list for the compiled MIMP.

23.71.014 Northgate Overlay District – Open space
Changes 23.71.014.A.2 from referencing "one-fifty (1/5) landscaped open space" to "one-fifth."

23.71.018 Northgate Overlay District - Transportation management program
The change would delete reference to "Director's Rule 14-2002" in 23.71.018.B and add "Director's Rule 9-2010 or its successors."

23.72.008.C Sand Point Overlay District – Uses permitted in specified areas
The change removes an outdated reference to repealed Section 23.45.004 and changes it to 23.45.504.

23.72.010.G Sand Point Overlay District – Development standards
The proposal would delete the current language regarding solid waste and recycling storage space and substitute a cross reference to Section 23.54.040.

23.73.014 Pike/Pine Conservation Overlay District – Height exceptions
The language in subsection B is proposed to be changed to clarify that the height exceptions for character structures under this section shall be permitted if the conditions are met. The exception process was not intended to be discretionary but rather simply an application of the development standards of the code.

23.75.015 Master Planner Communities – Yesler Terrace – Applicability of use and development standards

Section 23.75.015 prevents new development in the Yesler Terrace zone from using the new height and floor area allowances until a final plat is established for that area. This was intended to prevent development that might interfere with the planned block and street configuration at Yesler Terrace, prior to establishing the new configuration through a plat. The proposed changes would allow one development to proceed ahead of the plat in an area that does not interfere with the planned block/street configuration. The change is necessary to fit the permitting and development timeline of Seattle Housing Authority's (SHA's) Choice Neighborhoods grant from the Federal Department of Housing and Urban Development (HUD).

23.75.020 Master Planner Communities – Yesler Terrace – Definitions – Access Drive

Section 23.75.020 defines special terms in the Yesler Terrace zoning. The definition for "access drive" was intended to cover easements that provide parking access to multiple lots, but did not state this clearly. The proposed amendment corrects the error.

23.75.140 Master Planner Communities – Yesler Terrace – Setbacks and projections
23.75.170 Master Planner Communities – Yesler Terrace – Street-level development standards

Generally, the standards for dwelling units close to grade require a residential amenity area between a unit and an abutting street or park. These standards did not align clearly with setback rules that require a "built-to" line for nonresidential uses in certain locations – when read together, they implied that a setback for residential uses over nonresidential uses may be required. The proposed changes in these sections would clarify when amenity space is required between a unit and an abutting street or park.

23.76.004 Procedures for Master Use Permits and Council Land Use Decisions – General Provisions – Land Use Decision Framework

Subsection 23.76.004.C would be clarified to specify that quasi-judicial land use decisions (including rezones, approval of public projects, and council conditional uses) are subject to the land use interpretation process of Section 23.88.020.

A change to Table A for 23.76.004 under Type I land use decisions would specify that application of development standards for any decision not specifically designated in the table as a Type II, III, IV or V decision is a Type I (or non-discretionary) decision by the Director of DPD.

A second change to Table A under Type II land use decisions would clarify that SEPA decisions exercising SEPA substantive authority are limited to decisions to condition or deny a permit. SEPA substantive authority does not include decisions to approve without conditions, and therefore the term "approve" is proposed to be deleted.

Two further amendments to Table A would include all decisions listed under Section 23.76.036.A in the types of Director's and Hearing Examiner's decisions requiring Master Use

Permits under "Type IV (Quasi-Judicial)" Council land use decisions. The decisions listed in 23.76.036 are specifically designated as "quasi-judicial," yet they are not all included in the table requiring master use permits for quasi-judicial actions. Similarly, all decisions under 23.76.036.B would be included under "Type V (Legislative)" Council land use decisions.

23.76.012 Notice of application
Minor changes to language and cross references are proposed.

23.76.026 Vesting of development rights
Subsection 23.76.026.C says that development rights vest for projects involving a design review component of a Master Use Permit based on the code in place at the time the application is submitted. However, because DPD does not review every component of land use control ordinances in its design review process, the language in this section does not account for the possibility that development rights may vest without any review of those controls, such as stormwater regulations, which are reviewed only after a Master Use Permit is approved. The amendment would clarify that vesting only occurs for the code under which the Master Use Permit is reviewed. A second change would clarify that, for MUPs undergoing administrative design review or streamlined design review, vesting is based on filing of MUP application within 90 days of issuance or publication of the EDG report, since there is no public meeting. A third change adds new subsection 23.76.026.D for project within High Point and Rainier Vista low income housing developments discussed in detail under the proposal for changes to 23.45.502.

23.76.046 Public meetings and hearings for draft EISs
A minor change deleting a reference to a subsection that no longer exists is proposed.

23.76.050 Report of the Director
An incorrect cross reference is proposed to be fixed.

23.79.010 Establishment of Development Standard Departure for Public Schools – Duties of the Director of the Department of Neighborhoods
The proposed changes correct an error in recent amendments to land use permitting procedures in Ordinance 123913. The school use departure process was incorrectly amended to say that Department of Neighborhoods (DON) was responsible for the decision and notice, but the actual intent was for these procedures to remain DPD's responsibility.

23.84A.002 "A"
Two changes are proposed to the definitions under "agricultural use." The first would specify that "keeping of animals" according to the standards of Section 23.42.052 is not included in the definition of "animal husbandry," which will allow sales of these animals and their products in accordance with the standards for urban farms. The definition of "urban farm" would also be changed to allow sales of animal products, but not animals themselves, or their meat, just as sales of plants and plant products are allowed. The concept is to promote sales of products such as eggs and honey produced on an urban farm.

23.84A.006 "C"
The definitions of "carriage house" and "carriage house structure" are proposed to be moved under the definitions for "residential use," with cross references remaining under "C."
A change is proposed to definition of "chargeable floor area" to delete references to "downtown" and add language to clarify that chargeable floor area applies in any zone where floor area limits apply, since floor area ratio standards once applicable only in downtown zones have been added to many other zones, as well. A further change would specify that chargeable floor area includes any non-exempt floor area that is in a structure in a zone where floor area limits apply and eliminates the reference to Landmark status, as this just appears to say that floor area in a Landmark structure is chargeable unless otherwise exempt.

Under "Communication Devices and Utilities . . . 6. Communication utility, major and 7. Communication utility, minor, there are outdated references to "administrative offices" that are proposed to be changed to "offices."

23.84A.018 "I"
The proposal would clarify the definition of "vocational and fine arts school" to provide an exception for a business that specializes in providing individual instruction or training, such as music lessons in small rooms on a variety of instruments. This activity is more like a retail service business.

23.84A.028 "O"
A new definition of "open railing" is proposed as part of the proposal to improve the standards for structural building overhangs in Section 23.53.035.

23.84A.030 "P"
A definition of "penthouse pavilion," a term used in recent changes to the multifamily regulations, is proposed.

23.84A.032 "R"
The definitions of "carriage house" and "carriage house structure" are proposed to be moved under the definitions for "residential use."

A change is proposed to "rowhouse development" under "residential use" to clarify that accessory dwelling units and garages, but not principal dwelling units, may occupy the space above or below another dwelling unit and that habitable interior space must occupy the space on both side of the common wall that attaches two rowhouses. The changes would specifically allow accessory dwelling units in rowhouses and prevent developing rowhouses that are connected by only some minor attachment not containing living space.

A similar change to "townhouse development" under "residential use" is also proposed to specify that habitable interior space must occupy both sides of a common wall between townhouses, to prevent minor attachments.

23.84A.036 "S"
The term "stoop" is proposed to be defined as a cross reference to the definition of "porch," as a stoop is a subset of the broader term and should meet the same standards. The term "structural building overhang" is now proposed to be defined as part of the proposal to improve the standards for structural building overhangs in Section 23.53.035.

23.84A.038 "T"
An incorrect reference to an office name would be changed under "TDR site, arts facility," part 3.

23.84A.040 "U"
The proposed change would revise the definition of "salvage yard" to allow resale of materials from homes that have been deconstructed, and other types of household items that have been salvaged from demolition of residential structures.

23.84A.048 "Z"
The change would delete the phrase at the end of the definition of "zone, residential," that says ". . . but not including any zone with an RC designation." The phrase raises the question of whether an RC designated zone is residential. The policy is to classify an RC zone as residential based on the zone it is paired with (almost always a Lowrise multifamily residential zone), so the phrase is confusing and not needed anyway, as RC zones are not suffixes.

23.86.007 Gross floor area and floor area ratio measurement
Section 23.86.007.A would be changed to require that underground stories in structures be measured to the ceiling above that floor level, rather than to the finished floor level of the story next above the underground story, to determine whether the story is at or below the abutting existing or finished grade, whichever is lower.

Section 23.86.007.E is proposed to be added to clarify that the FAR limit on a lot containing more than one category of residential use is to be calculated as if there were only one category, provided that the FAR limit for each category is the same. A further proposed change would clarify that single family dwelling units existing as of January 1, 1982 are also to be excluded from calculation of the FAR limit.

23.86.016 Measurements – Structure and lot depth measurement
The language is proposed to be clarified to say "If any portion of a principal structure is behind any portion of another principal structure, then the combined depth of the principal structures shall not exceed the structure depth limit."

23.90.018 Civil enforcement proceedings and penalties
The proposal specifies that falsely certifying to the covenant of owner occupancy required for accessory dwelling units or failure to comply with the terms of the covenant is subject to a civil penalty. A second proposed change corrects a cross reference.

23.90.019 Civil Penalty for Unauthorized Dwelling Units in Single-Family Zones
One amendment would delete the dated provision beginning with the fifth sentence, "Penalties for violation of Sections 23.44.006 and 23.44.041 . . ." and continuing to the end of the section. Parties affected by the provision would have already either received a permit or been levied a civil penalty. It is no longer necessary to define the exception as the time window for it has passed and any dwelling units that would have been excepted would now be excepted under SMC 23.44.041.

A second amendment would move the fourth sentence beginning with "Falsely certifying to the terms of the covenant . . ." to 23.90.018.B.

A third amendment would clarify the third sentence by adding the underlined language as follows: "Penalties for violations of Sections 23.44.006 and 23.44.041, except for violations of subsection 23.44.041.C or except for violations subject to 23.90.018.B, shall be reduced . . ." The reason for the clarification is that the reduction of penalties, while reasonable for those who maintain an illegal ADU but then agree to remove it or legalize it by permit, should not apply to those who sign a covenant of owner occupancy of one of the dwelling units on the property but then violate that covenant by moving off the property and renting the unit.

23.91.002 Citations –Hearings-Penalties – Scope of Chapter 23.91
One amendment would change the incorrect cross-references in 23.91.002.A.4 and A.5. The correct references are to Keeping of Animals, Section 23.42.052 instead of .050 in A.4, and Home Occupations, Section 23.42.050 instead of .052 in A.5.

A second amendment would add references in Section 23.91.002.A.1and A.2, relating to violations of junk storage provisions and construction of structures in yards or setbacks in residential zones, to include citations of appropriate code chapters and sections for all residential zones. Currently, only lists sections for certain residential zones are listed.

25.05.350 Mitigated DNS
The changes fix some minor typos and cross references and, for subsection G, removes the reference to "conviction" for violation of mitigation measures, because there are no convictions in civil actions for penalties.

25.05.675.M.2.b.2) SEPA Parking Policy
The change would clarify that the intent was not to allow SEPA mitigation of parking impacts associated with residential projects, but mitigation of parking impacts of other sorts of development on the availability of parking for neighboring residential uses may still be allowed.

25.11.070 Tree protection on sites undergoing development in Lowrise zones
As it exists, Section 25.11.070 states only in its title that it applies to the listed zones. However, section titles should describe contents and should not include substantive provisions. The amendment would remove the substantive provision from the title and shorten it for ease of use and would include the applicability of the section in the text of the section itself. An unnecessary period has also been removed.

Recommendation

Adoption of these Land Use Code amendments will help to facilitate easier understanding and improved administration and application of the Land Use Code and related land use regulations. DPD recommends approval of the proposed legislation.